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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,064	02/19/2004	Michael Johnson	23-0458	4528

40158 7590 10/12/2005

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EXAMINER

JACYNA, J CASIMER

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/782,064	Applicant(s) JOHNSON, MICHAEL	
	Examiner J. Casimer Jacyna	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Benson et al. Benson discloses a gate valve 18 with an engagement means 22 and an inhibiting member as is the lock washer shown on 22 abutting 23 wherein 22 pushes the gate 18 into a partially open position by abutting the bottom of the gate 18 as claimed.

3. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Brummer. Brummer discloses a valve gates 3 with an engagement means 29 and an inhibiting member 28 wherein 29 pushes the gates 3 open when the normal valve opening system fails.

4. Applicant's arguments filed 9/1/2005 have been fully considered but they are not persuasive. In the arguments, Applicant merely repeats the amended claim language. Both Benson and Brummer teach gate valves 18 and 3 with lower edges that are contacted by rigid elongate bolt members 22 and 29 both of which are vertically adjustable so as to contact the bottom edge of the gate and force it open as claimed. Although neither Benson nor Brummer disclose the exact method of use contemplated by Applicant, the apparatus of both references are capable of carrying out the method of use functions as included in claims 1 and 3-6 and both Benson and Brummer disclose the claimed apparatus.

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5. Claim 7 is allowed. The prior art of record does not teach the method steps of drilling and tapping a hole in the casing then the threading attachment of an elongate member of an already closed gate valve as claimed. The prior art teaches manufacturing the casing with the bottom portion drilled and tapped and with the threaded engagement member inserted at the initial assembly of the apparatus. In the Benson, Mason, Mawby, Bredtschneider et al., and Pierce, Jr., references the threaded engagement member serves a designed purpose such as adjusting for the partial opening of the valve, tightening a valve seal, assisting in opening and closing the valve, etc. which preclude the performance of the drilling, tapping and threaded attachment method steps on a closed valve as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Wed. thru Fri. 9AM-7PM, Mon. 7AM-1PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 703-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Casimer Jacyna
Primary Examiner
Art Unit 3751

JCJ